IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLN.NO.210 OF 2007

Ganesh Pandharinath Mhatre ..Applicant
Vs.
State of Maharashtra ..Respondents

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Mr.A.P.Mundargi i/b P.P.Runwal counsel for applicant
Mr.V.B.Konde-Deshmukh A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MARCH 20, 2007

P.C.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in CR No.122 of 2005 of Vithalwadi Police Station. The said case is mainly under Section 302 of IPC.

3. It is the prosecution case that applicant along with others assaulted Baliram Mhatre and other four persons including Ramesh Mhatre and Tukaram Mhatre. The complainant in the present case is Ravi Mhatre. The complaint was lodged on the very same day. He has specifically named the applicant and he has stated that applicant assaulted his father. Baliram Mhatre died due to the said assault and

five other persons were injured in the said incident.

4. The learned counsel for the applicant has submitted that co-accused have been granted bail. AS far as co-accused who have been granted bail are concerned, no specific role has been attributed by any of the witnesses to them whereas as far as the present applicant is concerned, witnesses Ramesh and Tukaram have stated that the applicant was armed with sword and he assaulted Baliram on the head with sword.

5. As far as the statements of these two witnesses are concerned, the learned counsel has submitted that no reliance can be placed on the said statements because the incident is dated 18.11.2005 and the statements of these witnesses were recorded on 26.11.2005. It is seen that both these witnesses were badly injured in the said incident and in fact, when the statement of Ramesh was recorded on 26.11.2005, he was in Sion Hospital in Mumbai. The incident has occurred at Vithalwadi in Thane District. In such circumstances, delay in recording their statements would not shake the

prosecution case. Thus, in the facts of this case, I do not think that this is a fit case to grant bail. Application is rejected and disposed of as such.

[V.K.Tahilramani, J.]